

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1949 of 1984

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
  5. Whether it is to be circulated to the Civil Judge? : NO

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JYOTIBEN MANGALDAS PRAJAPATI HEIRS OF MANGALDAS M PRAJAPATI  
Versus  
GOPALDAS ALIS BABUBHAI  
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Appearance:

MR RN SHAH for Petitioners  
NOTICE SERVED for Respondent No. 1  
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CORAM : MR.JUSTICE Y.B.BHATT  
Date of decision: 11/02/2000

ORAL JUDGEMENT

1. This is a revision under section 29(2) of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 at the instance of the original plaintiff-landlord.
2. Before proceeding with the merits of the matter

it would be pertinent to bear in mind the principles laid down by the Supreme Court while dealing with the revisions arising under section 29(2) of the said Act. The Supreme Court in the case of Patel Valmik Himatlal & Others Vs. Patel Mohanlal Muljibhai [1998(2) GLH 736 = AIR 1998 SC 3325], while approving and reiterating the principles laid down in its earlier decision in the case of Helper Girdharbhai Vs. Saiyad Mohmad Mirasaheb Kadri [AIR 1987 SC 1782], held that High Court cannot function as a court of appeal, cannot reappreciate the evidence on record, cannot discard concurrent findings of fact based on evidence recorded by the courts below, and cannot interfere on grounds of inadequacy or insufficiency of evidence, and cannot interfere, except in cases where conclusions drawn by the courts below are on the basis of no evidence at all, or are perverse. A different interpretation on facts is also not possible merely because another view on the same set of facts may just be possible.

3. The landlord had filed a suit in the rent court against the respondent tenant to obtain a decree of eviction on the ground of arrears of rent and also on the ground of bonafide requirement. Various allegations were made as to the quantum of rent due and payable, etc. The trial court found, on the facts of the case, that since there was a genuine dispute as to standard rent which had been raised by the tenant, the case would not be covered under the provisions of section 12(3)(a) of the Rent Act, but would fall under section 12(3)(b) of the said Act. The trial court then found that the tenant had in fact paid up the arrears of rent during the course of the suit and that on the date of the decree there were no arrears. This finding of fact was confirmed by the appellate court, further strengthened by the finding that even during the course of the appeal, the tenant had continued to deposit the rent and on the date of the appellate judgement the tenant was not in arrears.

4. So far as the landlord's case in respect of personal bonafide requirements, the trial court found on the evidence on record that the landlord had failed to establish his case as to reasonable bonafide requirements and therefore the trial court refused a decree even on this ground. It is conceded by the learned counsel for the petitioner that this ground was not pressed before the lower appellate court. This, therefore, does not require consideration in the present revision.

5. Thus, it is found that the two courts below have refused decree of eviction to the petitioner landlord on

the basis of the evidence on record. Learned counsel for the petitioner is unable to point out how such an appreciation of evidence can possibly be said to be perverse.

6. In view of the well settled principle of law, there is no substance in the present revision and the same is, therefore, dismissed. Rule is accordingly discharged with no order as to costs.

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